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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
YOICHI MORI : EXAMINER: NGUYEN, N.  
SERIAL NO: 10/060,224 :  
FILED: FEBRUARY 1, 2002 : GROUP ART UNIT: 1754  
FOR: PROCESS AND APPARATUS FOR :  
TREATING GAS CONTAINING  
FLUORINE-CONTAINING COMPOUNDS  
AND CO

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TC 1700

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

Responsive to the Office Action including a Restriction Requirement of December 30, 2003, Applicants elect the claims of Group I (Claims 1-2), with traverse, for further prosecution.

REMARKS

The Office has required restriction of the claims of the above-identified application in the following Groups:

Group I (Claims 1-2) drawn to a process for creating a gas, and

Group II (Claims 3-8) drawn to an apparatus for treating a gas.

Applicants elect the claims of Group I (Claims 1-2), with traverse, for further prosecution in the above-identified application.

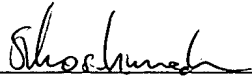
Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness (MPEP § 803).

The Office has asserted that the inventions of Groups I and II are related as a process and apparatus for its practice. Citing to MPEP § 806.05(e) the Office states: "Inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process." The Office is asserting that the apparatus of Group II may be used to practice other materially different processes such as those for treating gases containing only fluorine-containing compounds or chlorine-containing compounds. However, the Office has not provided any support for this assertion. Further, the Office has not cited to any evidence of record supporting the Office's assertion that any process for which the apparatus is used is *materially* different than the claimed process. Additionally, the Office has asserted that the process can be practiced by another materially different apparatus such as a two-stage reactor. However, the Office has failed to explain how the claimed process could be carried out with a two-stage reactor.

Accordingly, Applicants respectfully submit that the Restriction Requirement is unsustainable as evidenced by the Office's failure to meet its burden in showing that the Groups of claims are independent or patentably distinct, and the Restriction Requirement should therefore be withdrawn.

Respectfully submitted,

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